IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 15TH MARCH 2007 / 24TH PHALGUNA 1928

WP(C).No. 31293 of 2006(A)

PETITIONER:

V.N.UTHAMAN, VATTATHIL,
ARPOOKARA WEST, KOTTAYAM.

BY ADV. SRI.K.V.GOPINATHAN NAIR

RESPONDENTS:
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1. **THE REGIONAL TRANSPORT AUTHORITY,**
   KOTTAYAM, REPRESENTED BY ITS SECRETARY.

2. **THE SECRETARY, REGIONAL TARNSPORT**
   AUTHORITY, KOTTAYAM.

3. **P.T.SUNILKUMAR, PUTHENPARAMBIL,**
   ARPOOKARA WEST, KOTTAYAM.

BY ADV. SRI.P.DEEPAK
BY GOVERNMENT PLEADER SMT.N.SUDHADEVI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.C NO.31293/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE PROCEEDINGS OF THE 1ST RESPONDENT DT.30.5.06.

EXT.P2:- COPY OF THE JUDGMENT OF THE STATE TRANSPORT APPELLATE TRIBUNAL IN MV. AA. NO.323/06 DT.29.9.06.

EXT.P3:- COPY OF THE PROCEEDINGS OF THE 1ST RESPONDENT DT.30.5.06 REJECTING THE APPLICATION OF THE 3RD RESPONDENT.

EXT.P4:- COPY OF THE APPEAL MEMORANDUM AS MVAA NO.625/06 FILED BY THE 3RD RESPONDENT.

EXT.P5:- COPY OF THE ORDER OF THE STATE TRANSPORT APPELLATE TRIBUNAL IN MP. NO.2201/06 IN MVAA NO.625/06 DT.9.11.06.

EXT.R3(a):- COPY OF THE PROCEEDINGS OF THE 1ST RESPONDENT DT.21.12.06.

EXT.R3(b):- COPY OF THE PROCEEDINGS OF THE 2ND RESPONDENT DT.18.12.06.

EXT.R3(c):- COPY OF THE T.P.VALID TILL 6.4.07.

/TRUE COPY/

tss

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 31293 OF 2006-A

JUDGMENT

The petitioner has been granted a regular permit on the route Kottayam – Maniyaparambu by the R.T.A., Kottayam, by Ext.R3(a) proceedings dated 21.12.2006. Initially, the said application was rejected by Ext.P1 decision of the R.T.A dated 30.5.2006. But, the S.T.A.T., by Ext.P2 judgment directed to grant the permit. So, the permit was granted as per Ext.R3(a). The 3rd respondent applied for a permit on the same route. His application was also rejected by the R.T.A. The said respondent filed M.V.A.A.No.625/2006 before the S.T.A.T. During the pendency of the appeal, Ext.P5 interim order was passed, directing to grant four months' temporary permit to him. Pursuant to the said order, it is submitted, a temporary permit has been issued to him, valid up to 6.4.2007. This Writ Petition is filed, challenging Ext.P5. According to the petitioner, the Tribunal should not have directed to grant the temporary permit without adverting to the jurisdictional pre-conditions for grant of a temporary permit, contained in Section 87 of the Motor Vehicles Act. It is also pointed out that the appeal in which Ext.P5 interim order was passed, is

already disposed of. Therefore, the interim order cannot survive beyond the date of disposal of the appeal. So, the petitioner prays to quash Ext.P5.

2. The 3rd respondent has filed a counter affidavit, supporting the impugned order. According to him, he has been granted permit as per Ext.R3(b) proceedings, after settling the time schedule in a timing conference.

3. Heard the learned counsel on both sides. At the time of hearing the learned counsel for the petitioner mainly voiced the apprehension that the 3rd respondent may not be allowed to take advantage of the time schedule granted to him as per Ext.R3(b) proceedings. The learned counsel for the 3rd respondent on the other hand, would submit that the said time schedule has been issued after settlement of the timings and no one can have any objection against it. Both the permits were granted subject to settlement of timings. Therefore, the Secretary is bound to issue the permits only after settling the time schedule. While settling the time schedule, the contention of the 3rd respondent that the time schedule contained in Ext.R3(b) may be issued to him and the objection of the writ petitioner against the said time schedule shall be taken note of. The Secretary, R.T.A will be free to pass

appropriate orders in public interest in the matter.

The Writ Petition is disposed of as above.

15th March, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/